

ORIGINAL

COMMISSIONERS  
GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

OPEN MEETING AGENDA ITEM



0000138819

ARIZONA CORPORATION COMMISSION

RECEIVED  
Arizona Corporation Commission  
DOCKET CONTROL DOCKETED

DATE: AUGUST 29, 2012

2012 AUG 29 PM 3 19 AUG 29 2012

DOCKET NOS.: W-01384A-11-0243; W-20809A-11-0243; W-02065A-11-0246, and W-20809A-11-0246

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

DELLS WATER COMPANY, INC., WILHOIT WATER COMPANY, INC.,  
AND ACME WATER, LLC  
(SALE/TRANSFER CC&N)

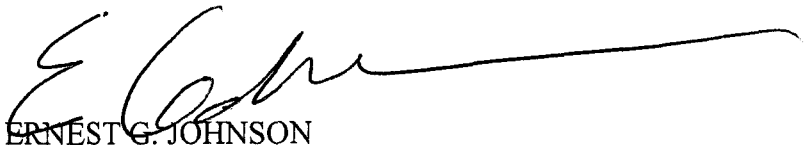
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

SEPTEMBER 7, 2012

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

SEPTEMBER 19, 2012 AND SEPTEMBER 20, 2012

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 GARY PIERCE - Chairman  
4 BOB STUMP  
5 SANDRA D. KENNEDY  
6 PAUL NEWMAN  
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION OF  
9 DELLS WATER COMPANY, INC. FOR  
10 APPROVAL OF THE SALE OF ITS ASSETS AND  
11 FOR THE TRANSFER OF ITS CERTIFICATE OF  
12 CONVENIENCE AND NECESSITY TO ACME  
13 WATER, LLC.

DOCKET NO. W-01384A-11-0243  
DOCKET NO. W-20809A-11-0243

14 IN THE MATTER OF THE APPLICATION OF  
15 WILHOIT WATER COMPANY, INC. FOR  
16 APPROVAL OF THE SALE OF ITS ASSETS AND  
17 FOR THE TRANSFER OF ITS CERTIFICATE OF  
18 CONVENIENCE AND NECESSITY TO ACME  
19 WATER, LLC.

DOCKET NO. W-02065A-11-0246  
DOCKET NO. W-20809A-11-0246

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

14 DATE OF HEARING: April 9, 2012  
15 PLACE OF HEARING: Phoenix, Arizona  
16 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey  
17 APPEARANCES: Mr. Douglas G. Martin, MARTIN & BELL, LLC, on  
18 behalf of Applicants;  
19 Mr. Jim West, on behalf of ACME Water Company; and  
20 Ms. Kimberly Ruht, Staff Attorney, Legal Division, on  
21 behalf of the Utilities Division of the Arizona  
22 Corporation Commission.

23 **BY THE COMMISSION:**

24 On June 16, 2011, Dells Water Company, Inc. ("DWC") and Wilhoit Water Company, Inc.  
25 ("WWC") (collectively "the Utilities") each filed with the Arizona Corporation Commission  
26 ("Commission") an application for approval of the sale of their assets and the transfer of their  
27 Certificates of Convenience and Necessity ("CC&Ns") to ACME Water, LLC ("ACME"). The  
28 Utilities each provide water services to various parts of Yavapai County, Arizona, pursuant to their  
respective CC&Ns.

1 On July 5, 2011, DWC and WWC each docketed certification that notice of their applications  
2 had been mailed and published in their respective CC&N service areas.

3 On September 15, 2011, WWC filed a supplement to its application requesting approval of  
4 the sale its Willow Lakes water system to the City of Prescott ("Prescott") and for deletion of that  
5 portion of its CC&N.

6 On the same date, WWC docketed a second supplement to its application requesting approval  
7 to delete a portion of its CC&N area that was never developed and has never served any customers,  
8 located in portions of Sections 26, 27, 34, and 35 of Township 11 North, Range 3 West.

9 On December 16, 2011, the Commission's Utilities Division ("Staff") filed Staff Reports in  
10 each docket recommending approval of both DWC's and WWC's application.

11 On December 23, 2011, DWC and WWC each filed a letter in their respective above-  
12 captioned dockets stating the Utilities had no objections to Staff's recommendations and requested  
13 that the dockets be consolidated for purposes of hearing. No objections to the Utilities' requests for  
14 consolidation of these matters were filed.

15 On January 10, 2012, by Procedural Order, the above-captioned dockets were consolidated.  
16 Because both of the applications filed on behalf of DWC and WWC were signed by Mr. Jim West,  
17 acting as Manager for both DWC and WWC, the Utilities were directed to file documentation from  
18 either their attorney or a representative verifying that the applications for the sale of assets and  
19 transfer of CC&Ns had been filed on behalf of the Utilities. Further, the timeclock in this matter was  
20 suspended.

21 On January 18, 2012, Douglas G. Martin, Esq., filed a Notice of Appearance on behalf of  
22 DWC and WWC.

23 On February 13, 2012, by Procedural Order, the matter was set for hearing to begin on April  
24 9, 2012, public notice was ordered, and other procedural deadlines were established.

25 On March 22, 2012, Baca Enterprises, L.L.C. dba Lakeside Water Company ("Baca") filed a  
26 Motion to Intervene ("Motion") in this proceeding. The Motion stated that Baca is the owner of  
27 several parcels of land which include homes that are currently being served by DWC, and that Baca  
28 has an interest in the continuation of service to its parcels by DWC if the transfer and sale of assets is

1 completed. No objections to Baca's Motion were filed.

2 On April 2, 2012, a Procedural Order was issued granting Baca intervention in this matter.

3 On April 9, 2012, a full public hearing was convened before a duly authorized Administrative  
4 Law Judge of the Commission at its offices in Phoenix, Arizona. DWC, WWC, and Staff appeared  
5 through counsel. Mr. Jim West appeared on behalf of ACME. Baca did not appear for the hearing  
6 and no members of the public were present to give public comments. At the conclusion of the  
7 hearing, Staff was directed to file, by May 11, 2012, a Supplemental Staff Report addressing DWC's  
8 and WWC's compliance with previous Commission Decisions and ADEQ requirements. Further,  
9 Staff was directed to file any additional recommendations in its Supplemental Staff Report and the  
10 Utilities were ordered to docket any ADEQ Consent Orders currently in effect.

11 On May 9, 2012, an executed agreement between WWC and Walden Meadows Community  
12 Co-op ("Walden"), and copies of various ADEQ Consent Orders were docketed.

13 On May 16, 2012, Staff filed a request for an extension of time, until May 22, 2012, to file its  
14 Supplemental Staff Report.

15 On May 17, 2012, by Procedural Order, Staff's request for an extension of time, until May 22,  
16 2012, to file its Supplemental Staff Report was granted. The Procedural Order also extended the  
17 deadline for the Utilities response to Staff's Supplemental Staff Report to June 8, 2012.

18 On May 22, 2012, Staff filed its Supplemental Staff Report.

19 On May 30, 2012, the Utilities docketed a letter stating that they support the  
20 recommendations in Staff's Supplemental Staff Report.

21 \* \* \* \* \*

22 Having considered the entire record herein and being fully advised in the premises, the  
23 Commission finds, concludes, and orders that:

## 24 FINDINGS OF FACT

### 25 Background

26 1. DWC is an Arizona for-profit corporation providing water utility service near the City  
27 of Prescott in Yavapai County, Arizona.

28 2. DWC serves approximately 64 residential customers.

1           3.       DWC was granted a CC&N in Commission Decision No. 27705 (June 16, 1953) and  
2 serves a CC&N area encompassing approximately one-half square mile in the northwest quarter of  
3 Section 13 in Township 14 North, Range 2 West.

4           4.       WWC is an Arizona corporation engaged in the business of providing water utility  
5 service in the vicinity of Wilhoit, Arizona in Yavapai County.

6           5.       The Commission approved a CC&N for WWC in Decision No. 39691 (October 24,  
7 1968).

8           6.       WWC owns and operates three water systems: Yavapai Estates located in Chino  
9 Valley, Arizona; Blue Hills located in the Town of Dewey; and Thunderbird Meadows located  
10 southwest of Prescott, Arizona near Kirkland. Yavapai Estates encompasses one-eighth of a square  
11 mile; Blue Hills encompasses approximately 1/32 of a square mile; and Thunderbird Meadows  
12 encompasses approximately one-half square mile.

13          7.       On May 1, 2011, DWC, WWC, and ACME entered into an Asset Purchase Agreement  
14 ("Agreement") whereby ACME would acquire DWC's and WWC's water system assets and CC&Ns,  
15 subject to prior Commission approval.

16          8.       On June 16, 2011, DWC and WWC each filed separate applications with the  
17 Commission requesting approval of the sale of their water system assets and the transfer of their  
18 CC&Ns to ACME.<sup>1</sup>

19          9.       On September 15, 2011, WWC filed a supplement to its application requesting  
20 retroactive approval of the sale of its Willow Lakes water system to the City of Prescott and to delete  
21 that portion of its CC&N.<sup>2</sup> According to WWC, the City annexed the area served by the Willow  
22 Lakes water system and the water system was condemned on June 10, 1981. The area encompassing  
23 the Willow Lakes water system is described in Exhibit A, attached hereto and incorporated herein by  
24

25 <sup>1</sup> According to Staff, if the proposed transfer is approved by the Commission this will be the first water system owned and  
operated by ACME.

26 <sup>2</sup> In Commission Decision No. 58102 (December 9, 1992), Staff indicated that part of WWC's CC&N area included a  
27 water system serving the Willow Lakes subdivision in Yavapai County; that Prescott annexed the subdivision and  
28 purchased the company's water system serving the subdivision; and that the company never obtained prior Commission  
approval for the sale or for deletion of the CC&N area. Decision No. 58102 ordered WWC to file an application with the  
Commission within six months of the effective date of the Decision requesting approval of the sale of the Willow Lakes  
system and deletion of the corresponding CC&N area.

1 reference.

2 10. On the same date, WWC docketed a second supplement to its application requesting  
3 approval to delete a portion of its CC&N area that was never developed and has never served any  
4 customers. The proposed deleted areas are located in portions of Sections 26, 27, 34, and 35 of  
5 Township 11 North, Range 3 West and described in Exhibit B, attached hereto and incorporated  
6 herein by reference.

7 Technical, Managerial, Financial Ability

8 11. Mr. West is the owner of ACME and has acted as the manager for the Utilities for the  
9 last five years. According to Mr. West, the sale of the Utilities' assets will be financed through his  
10 time and effort spent helping the Utilities come into compliance and that no cash will be exchanged.<sup>3</sup>  
11 Mr. West testified that ACME has the ability to finance short term expenses related to the Utilities.<sup>4</sup>

12 12. According to Mr. West, if the sale and transfer are approved by the Commission the  
13 day-to-day operations of the Utilities will essentially remain the same. Mr. West testified that he  
14 began working for WWC and DWC about five years ago to help the Utilities with a variety of  
15 regulatory issues and the filing of a rate case.<sup>5</sup> Mr. West explained that he handles the day-to-day  
16 operations of the Utilities as well as reading meters every month for DWC, and WWC's Blue Hills  
17 and Yavapai Estates water systems.<sup>6</sup> Mr. West stated that the meter readings for the Thunderbird  
18 system are handled by a contractor.<sup>7</sup> According to Staff, Mr. Brian Cunningham, a Grade II Certified  
19 Water Operator will continue to operate DWC's water system under ACME if the transfer and sale is  
20 approved by the Commission.<sup>8</sup>

21 13. Staff's witness testified that Staff believes Mr. West and ACME are fit and proper  
22 entities to hold the CC&Ns of WWC and DWC because over the last four to five years Mr. West has  
23 increasingly changed the status of the Utilities, taking them from deteriorating water systems to  
24 slowly coming into compliance.<sup>9</sup> Staff further stated that due to the "aging out" of the current owners

---

25 <sup>3</sup> Tr. at 23.

26 <sup>4</sup> Tr. at 26.

26 <sup>5</sup> Tr. at 10, 17.

27 <sup>6</sup> Tr. at 15.

27 <sup>7</sup> Id.

28 <sup>8</sup> Exhibit S-1.

28 <sup>9</sup> Tr. at 44.

1 it is in the public interest to grant the transfers and the sale of assets of the Utilities to ACME.<sup>10</sup>

2 14. Staff believes Mr. West, as the owner of ACME, has the technical, managerial, and  
3 financial ability, as required by the Arizona Administrative Code ("A.A.C."), to operate the  
4 Utilities.<sup>11</sup>

5 **DWC**

6 **Water System**

7 15. According to Staff's Engineering Report, DWC's water system consists of four wells,  
8 pumping 240 gallons per minute ("GPM"); three 12,000 gallon storage tanks; one 2,100 gallon  
9 pressure tank; and a distribution system consisting of 67 metered connections.<sup>12</sup>

10 16. Staff has concluded that DWC's water system has adequate production and storage  
11 capacity to serve existing customers and reasonable growth.

12 17. Staff states that non-account water should be 10 percent or less.<sup>13</sup> Staff indicated that  
13 in 2010 DWC reported a zero percent non-account water loss, and that the zero percent water loss  
14 calls into question the validity of DWC's reported water loss data.<sup>14</sup>

15 18. DWC's witness testified that the Utilities have not done a good job in the past of  
16 making sure they are not losing water either through faulty meters or leaks that are undetected.<sup>15</sup> In  
17 an effort to correct the problem, the witness stated that meters are being read every month at the well  
18 site and the Utilities are comparing the readings with their sales so that the Utilities' water loss is  
19 being monitored.<sup>16</sup> Further, the witness stated that DWC has no objection to Staff's recommendation  
20 requiring DWC to keep records of the monthly meter readings and water sales.<sup>17</sup>

21 19. The Arizona Department of Environment Quality ("ADEQ") has determined that  
22 DWC's water system has no major deficiencies and is delivering water that meets water quality  
23 standards as required by the A.A.C.

24 \_\_\_\_\_  
25 <sup>10</sup> Tr. at 46.

26 <sup>11</sup> Exhibit S-1 and Exhibit S-2.

27 <sup>12</sup> Exhibit S-1 at Attachment A.

28 <sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Tr. at 12.

<sup>16</sup> Id.

<sup>17</sup> Id.

20. DWC has no outstanding compliance issues with the Commission.

21. DWC has an approved Curtailment Tariff on file with the Commission.

22. DWC has an approved Cross Connection and Backflow Tariff on file with the Commission.

23. DWC's service area is located within the Arizona Department of Water Resources' ("ADWR") Phoenix Active Management Area ("AMA"). ADWR has determined that DWC is in compliance with AMA reporting and conservation rules.<sup>18</sup> According to Staff, DWC is required by ADWR to participate in the Modified Non-Per Capita Conservation Program for AMAs, which requires participants to implement water conservation measures that result in water use efficiency and requires that water providers' implement a Public Education Program and one or more Best Management Practices ("BMPs") based on the water provider's total number of service connections.<sup>19</sup>

24. On August 19, 2011, DWC docketed three proposed BMPs which included 3.6 (Customer High Water Use Inquiry Resolution); 3.7 (Customer High Water Use Notification), and 5.2 (Water System Tampering).

25. Staff concluded that DWC's proposed BMP Tariffs are relevant to DWC's service area and that the proposed BMP Tariffs conform to the templates developed by Staff.

### **Other Issues**

26. Baca was granted intervention in this proceeding.<sup>20</sup> Baca stated that it owns Lakeside Water Company, a public water system, currently providing water to seven homes located within DWC's CC&N.<sup>21</sup>

27. DWC's witness stated that the Baca parcels of land are located within DWC's CC&N area; the homeowners of the parcels have a shared well agreement by which Baca provides water; the homeowners have never requested service from DWC; and that DWC and/or ACME is willing to provide water service if the homeowners request service.<sup>22</sup>

<sup>18</sup> Exhibit S-1 at Attachment A, referencing ADWR Compliance Status Report dated June 28, 2011.

<sup>19</sup> Exhibit S-1 at Attachment A.

<sup>20</sup> Motion to Intervene docketed March 22, 2012.

<sup>21</sup> Id.

<sup>22</sup> Tr. at 13.



28. Baca did not participate in the evidentiary hearing.

**WWC**

**Water Systems**

29. WWC currently owns and operates three water systems in Yavapai County, Arizona known as Yavapai Estates, Blue Hills, and Thunderbird Meadows.

**Yavapai Estates**

30. According to Staff, the Yavapai Estates system consists of two wells (producing 55 GPM); a distribution system; and a storage facility serving 94 metered connections.<sup>23</sup> Staff concluded that the system has adequate production and storage to serve existing customers and reasonable growth.<sup>24</sup>

31. ADEQ has issued a Compliance Order for WWC's Yavapai Estates water system (Consent Order No. DW-128-06). According to Staff, the Compliance Order required WWC to install an arsenic treatment system to comply with the required federal arsenic minimum contaminant level ("MCL") of 10 parts per billion ("ppb") or less.

32. WWC's witness stated that WWC attempted a variety of mechanisms to resolve the arsenic issues in the Yavapai Estates water system, including having Prescott supply water to the system on a long term basis.<sup>25</sup> According to the witness, Prescott's water line runs in front of the Yavapai Estates water system and Prescott supplied water for over a year at a cost of \$150,000.<sup>26</sup> The witness stated that Prescott was unwilling to connect the Yavapai Estates and Blue Hills water systems to Prescott's water line because the WWC systems were outside of the city limits.<sup>27</sup> Further, WWC's witness stated that arsenic treatment plants have been installed for both Yavapai Estates and Blue Hills water systems, and the Utilities obtained loans in the range of \$70,000 to \$350,000 for installation of arsenic treatment facilities.<sup>28</sup>

33. Staff reports that an Approval of Construction ("AOC") for the Yavapai Estates

---

<sup>23</sup> Exhibit S-2, Attachment A.

<sup>24</sup> Id.

<sup>25</sup> Tr. at 25.

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> Id.

1 arsenic treatment plant was issued on April 12, 2011, and that WWC has completed its arsenic  
2 treatment plant and four quarters of monitoring showing that the Yavapai Estates system has arsenic  
3 levels below the mandated MCL. Based on an ADEQ Compliance Report issued July 18, 2011, the  
4 Yavapai Estates system is currently delivering water that meets water quality standards as required by  
5 the A.A.C.

6 34. Staff states that ADEQ is in the process of closing Compliance Order DW-128-06.

7 Blue Hills

8 35. WWC's Blue Hills system consists of two wells (producing 60 GPM); a storage  
9 facility; and a distribution system serving 54 metered connections.

10 36. Staff concluded that the Blue Hills system has adequate production and storage  
11 capacity to serve its existing customers and reasonable growth.

12 37. ADEQ has stated that WWC's Blue Hill system has major monitoring and reporting  
13 deficiencies and that ADEQ is unable to determine if the system is currently delivering water that  
14 meets water quality standards.<sup>29</sup> Further, Staff states that the Blue Hill system wells exceed the  
15 arsenic MCL.<sup>30</sup>

16 38. In its Supplemental Staff Report, Staff states WWC is currently under a Consent Order  
17 with ADEQ which requires WWC to install an arsenic treatment system for its Blue Hills water  
18 system.<sup>31</sup> Staff reports that on October 4, 2011, ADEQ issued an AOC for the Blue Hills arsenic  
19 treatment plant.<sup>32</sup>

20 39. WWC's witness testified that the arsenic treatment plant for the Blue Hills system has  
21 been completed.<sup>33</sup>

22 40. Staff states that ADEQ is requiring WWC to complete four quarters of arsenic  
23 monitoring with an average arsenic level below the MCL for its Blue Hills system before ADEQ will  
24 close the Consent Order. According to Staff, ADEQ anticipates the Consent Order will be closed on  
25 or about January 1, 2013.

---

26 <sup>29</sup> Exhibit S-2 Attachment A.

27 <sup>30</sup> Id.

28 <sup>31</sup> Staff referencing ADEQ Consent Order No. DW-26-10.

<sup>32</sup> Id.

<sup>33</sup> Tr. at 15.

Thunderbird Meadows

41. WWC's Thunderbird Meadows system consists of four wells (producing 20 GPM) and a distribution system serving 123 metered connections.

42. According to Staff, ADEQ has determined that WWC's Thunderbird Meadows system has major deficiencies and ADEQ is unable to determine if the Thunderbird Meadows system is currently delivering water that meets water quality standards.<sup>34</sup>

43. WWC's Thunderbird Meadows system is under an ADEQ Consent Order (No. DW-55-08). Under the Consent Order, WWC is required to install a new storage tank(s) to meet minimum storage requirements and to drill a new well for its Thunderbird Meadows water system. Further, the Consent Order requires WWC to submit to ADEQ a Contingency Plan of Action ("Contingency Plan") describing measures WWC will implement in the event the water pressure in the Thunderbird Meadows water system falls below 20 pounds per square inch ("psi"). According to Staff, ADEQ issued an AOC for WWC's new well and a 65,000 gallon storage tank on July 12, 2011, and August 24, 2011, respectively.

44. WWC's witness testified that the work required by ADEQ for the Thunderbird Meadows system is continuing.<sup>35</sup> According to the witness, the storage tank installation was completed six months prior to the hearing, but there is a remaining issue involving exposed pipes on the storage tank that should be corrected in one week.<sup>36</sup>

45. Staff concluded that WWC has made substantial progress in complying with Consent Order No. DW-55-08, but that full compliance has not been met because WWC has not submitted its Contingency Plan for its Thunderbird Meadows water system to ADEQ. Staff states that WWC has submitted paperwork to ADEQ for the new well and that ADEQ is in the process of reviewing the paperwork for completeness.

46. At the time of hearing, ADEQ had determined that the water produced by the Thunderbird Meadows wells exceed the arsenic MCL. Currently water is being purchased from Walden Meadows Community Co-op ("Walden") and blended with water from the Thunderbird

<sup>34</sup> Staff referencing ADEQ Compliance Status Report dated July 21, 2011.

<sup>35</sup> Tr. at 17.

<sup>36</sup> Id.

1 Meadows system to serve customers.<sup>37</sup> Walden is an Arizona non-profit corporation and was granted  
2 a CC&N in Decision No. 51174 (July 23, 1980).<sup>38</sup>

3 47. According to Staff, Walden and WWC entered into a Water Purchase Agreement  
4 (“WPA”) in 1984, that was modified in 1986 and which provides for the sale of up to 400,000 gallons  
5 of water per month by Walden to WWC for use in its Thunderbird Meadows water system.<sup>39</sup> Under  
6 the WPA, Walden also agrees to provide water in emergency water shortage situations as long as  
7 Walden can meet its own customers’ demands.

8 48. Staff concluded that WWC’s Thunderbird Meadows system has adequate production  
9 and storage capacity, through its interconnection with Walden, to serve WWC’s existing customers  
10 and reasonable growth.

11 49. Staff states that Walden is in compliance with the Commission; that ADEQ reports no  
12 major deficiencies for Walden; and that Walden is currently delivering water that meets water quality  
13 standards.

14 50. On August 19, 2011, WWC docketed three proposed BMPs which included 3.6  
15 (Customer High Water Use Inquiry Resolution); 3.7 (Customer High Water Use Notification), and  
16 5.2 (Water System Tampering).

17 51. Staff concluded that WWC’s proposed BMP Tariffs are relevant to WWC’s service  
18 area and that the proposed BMP Tariffs conform to the templates developed by Staff.

19 52. WWC has an approved Curtailment Tariff on file with the Commission.

20 53. WWC has an approved Cross Connection & Backflow Tariff on file with the  
21 Commission.

22 54. WWC is located within the Prescott AMA, and ADWR reports WWC is currently in  
23 compliance with departmental requirements governing water providers and/or community water  
24 systems.<sup>40</sup>

25 55. WWC is in compliance with the Commission’s Utilities Division.

26  
27 <sup>37</sup> Supplemental Staff Report at 1.

28 <sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> Staff referencing ADWR Compliance Status Report dated June 28, 2011.

Sale/Deletion of Willow Lakes System

56. WWC's supplement to its application requests that the Commission approve the sale of its Willow Lakes water system assets to Prescott.

57. WWC's witness stated that Prescott annexed the area served by the Willow Lakes water system, and in 1981 condemned the Willow Lakes water system and purchased the assets from WWC as part of the condemnation proceeding.

58. Staff reported that WWC failed to seek prior Commission approval of the sale of the Willow Lakes water system and that WWC was ordered in Decision No. 58102 (December 9, 1992) to file an application requesting approval of the sale of the Willow Lakes assets to Prescott and deletion of the corresponding CC&N area.

59. Staff recommends approval of the sale of the Willow Lake water system assets to Prescott.

Deletion of a Portion of CC&N

60. WWC has requested cancellation and deletion of a portion of its CC&N. According to WWC, its CC&N area, located in portions of Sections 26, 27, 34, and 35 of Township 11 North, Range 3 West was never developed by WWC's parent company (Glenarm Land Company) and it has never served any customers.

61. Staff states that there are no existing customers in the proposed deletion area and it does not appear the area will be developed in the near future. Staff recommends that the Commission approve WWC's request for deletion of portions of its CC&N located in Sections 26, 27, 34, and 35 of Township 11 North, Range 3 West.

Staff Recommendations

62. Staff recommends approval of WWC's and DWC's applications for the sale of their assets and the transfer of their CC&Ns to ACME, subject to the following conditions:

- a. WWC and DWC coordinate the reading of their well meters and individual customer meters on a monthly basis and report such data in its future Annual Reports beginning with the 2012 Annual Report to be filed in 2013. The results of this monitoring and reporting should be docketed as a compliance item in this case within 13 months of the effective date of a Decision in this matter. If the reported water loss for the period is

greater than 10 percent WWC shall prepare a report containing a detailed analysis and plan to reduce water loss to 10 percent or less. If the Company believes it is not cost effective to reduce water loss to less than 10 percent, it should submit a detailed cost benefit analysis to support its opinion. In no case shall the Company allow water loss to be greater than 15 percent. The water loss reduction report or the detailed analysis, whichever is submitted, shall be docketed as a compliance item no later than June 30, 2013.

b. WWC and DWC file with Docket Control, as a compliance item in this docket, BMP Tariffs 3.6, 3.7, and 5.2, within 30 days of the effective date of a Decision in this matter.

c. WWC file with Docket Control, as a compliance item in this docket, by June 30, 2013, ADEQ Water Quality Compliance Status Reports showing that its Blue Hills water system is in compliance with ADEQ requirements and that its system is delivering water that meets water quality standards required by the A.A.C.

d. WWC file with Docket Control, as a compliance item in this docket, by December 31, 2012, ADEQ Water Quality Compliance Status Reports showing that its Thunderbird Meadows water system is in compliance with ADEQ requirements and that its system is delivering water that meets water quality standards required by the A.A.C.

63. Staff also recommends approval of the sale and transfer of WWC's Willow Lakes water system assets to the City of Prescott.

64. Staff further recommends approval of WWC's request to delete from its CC&N the areas located in portions of Sections 26, 27, 34, and 35 of Township 11 North, Range 3 West.

65. Staff's recommendations are reasonable and will be adopted.

### **CONCLUSIONS OF LAW**

1. Dells Water Company and Wilhoit Water Company are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282, and 40-285.

2. The Commission has jurisdiction over Dells Water Company and Wilhoit Water Company and the subject matter of the consolidated dockets.

3. Notice of the applications was provided in accordance with the law.

4. The proposed sale of Dells Water Company's and Wilhoit Water Company's assets to

1 ACME Water, LLC, is in the public interest and will not have an adverse effect on the service quality  
2 or operations of the Utilities.

3 5. The transfer of the Dells Water Company and Wilhoit Water Company CC&Ns to  
4 ACME Water, LLC, is in the public interest, subject to Staff's stated conditions.

5 6. The sale of assets to the City of Prescott and the cancellation of the Willow Lakes  
6 portion of Wilhoit Water Company's CC&N is in the public interest.

7 7. Approval of WWC's request to delete from its CC&N the area located in portions of  
8 Sections 26, 27, 34, and 35 of Township 11 North, Range 3 West, is in the public interest.

9 8. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

10 **ORDER**

11 IT IS THEREFORE ORDERED that the applications of Dells Water Company, Inc., and  
12 Wilhoit Water Company, Inc., for the sale of their assets and the transfer of their Certificates of  
13 Convenience and Necessity to ACME Water, LLC, are hereby approved subject to compliance with  
14 the following Ordering Paragraphs.

15 IT IS FURTHER ORDERED that Dells Water Company, Inc., and Wilhoit Water Company,  
16 Inc., shall coordinate the reading of their well meters and individual customer meters on a monthly  
17 basis and report such data in their future Annual Reports beginning with the 2012 Annual Reports to  
18 be filed in 2013. The results of this monitoring and reporting should be docketed as a compliance  
19 item in this case within 13 months of the effective date of this Decision. If the reported water loss for  
20 the period is greater than 10 percent, Dells Water Company, Inc., and Wilhoit Water Company, Inc.,  
21 shall prepare a report containing a detailed analysis and plan to reduce water loss to 10 percent or  
22 less. If Dells Water Company, Inc., and/or Wilhoit Water Company, Inc., believes it is not cost  
23 effective to reduce water loss to less than 10 percent, it shall submit a detailed cost benefit analysis to  
24 support its opinion. In no case shall the Utilities allow water loss to be greater than 15 percent. The  
25 water loss reduction report or the detailed analysis, whichever is submitted, shall be docketed as a  
26 compliance item no later than June 30, 2013.

27 IT IS FURTHER ORDERED that Dells Water Company, Inc., and Wilhoit Water Company,  
28 Inc., shall each file with Docket Control, as a compliance item in this docket, Best Management

1 Practice Tariffs 3.6, 3.7, and 5.2, within 30 days of the effective date of this Decision.

2 IT IS FURTHER ORDERED that Wilhoit Water Company, Inc., shall file with Docket  
3 Control, as a compliance item in this docket, by June 30, 2013, Arizona Department of  
4 Environmental Quality Compliance Status Reports demonstrating that its Blue Hills water system is  
5 in compliance with Arizona Department of Environmental Quality requirements and that the Blue  
6 Hills water system is delivering water that meets water quality standards required by the Arizona  
7 Administrative Code.

8 IT IS FURTHER ORDERED that Wilhoit Water Company, Inc., shall file with Docket  
9 Control, as a compliance item in this docket, by December 31, 2012, Arizona Department of  
10 Environmental Quality Compliance Status Reports demonstrating that its Thunderbird Meadows  
11 water system is in compliance with Arizona Department of Environmental Quality requirements and  
12 that its system is delivering water that meets water quality standards required by the Arizona  
13 Administrative Code.

14 IT IS FURTHER ORDERED that Wilhoit Water Company's request for the sale and transfer  
15 of the Willow Lakes water system assets to the City of Prescott, as described in Exhibit A, is hereby  
16 approved.

17 IT IS FURTHER ORDERED that Wilhoit Water Company's request for deletion from its  
18 Certificate of Convenience and Necessity the Willow Lakes water system area, as described in  
19 Exhibit A, is hereby approved.

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...



IT IS FURTHER ORDERED that Wilhoit Water Company, Inc.'s, request for deletion from its Certificate of Convenience and Necessity the areas located in portions of Sections 26, 27, 34, and 35 of Township 11 North, Range 3 West, and as described in Exhibit B, is hereby approved.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: DELLS WATER COMPANY, INC., WILHOIT WATER  
2 COMPANY, INC. AND ACME WATER LLC.  
3 DOCKET NOS.: W-01384A-11-0243, W-20809A-11-0243, W-02065A-11-0246  
4 and W-20809A-11-0246  
5 Douglas G. Martin, Esq. ✓  
6 365 East Coronado Road, Suite 200  
7 Phoenix, AZ 85004-1560  
8 Statutory Agent for Wilhoit Water Company, Inc.  
9 and Dells Water Company, Inc.  
10 David A. Conlin, Jr., President  
11 Anne K. Conlin, Vice-President  
12 WILHOIT WATER COMPANY, INC  
13 AND DELLS WATER COMPANY, INC.  
14 P.O. Box 870  
15 Clarkdale, AZ 86324-0870  
16 Jim West ✓  
17 ACME WATER CO.  
18 365 East Coronado Road, Suite 200  
19 Phoenix, AZ 85004-1560  
20 Janice Alward, Chief Counsel ✓  
21 Legal Division  
22 ARIZONA CORPORATION COMMISSION  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007  
25 Steven M. Olea, Director ✓  
26 Utilities Division  
27 ARIZONA CORPORATION COMMISSION  
28 1200 West Washington Street  
Phoenix, AZ 85007

**EXHIBIT A**

ATTACHMENT "A"

The North Half of the Northwest Quarter of  
Section 14 and the Northeast Quarter of the  
Northeast Quarter of Section 15, all in  
Township 14 North, Range 2 West, Gila and  
Salt River Base and Meridian, Yavapai County,  
Arizona.

**EXHIBIT B**

The Southwest Quarter of Section 26, the Southeast Quarter of Section 26, the North Half of the Northeast Quarter of Section 35; EXCEPT all coal and other minerals as reserved by the United States in Patent on said land. The East Half of the Southeast Quarter and the Southwest Quarter of Section 27; the Northeast Quarter of the Northeast Quarter of Section 34, the North Half of the Northwest Quarter; the Southwest Quarter of the Northwest Quarter and the West Half of the Southwest Quarter of Section 35; all in the Township 11 North, Range 3 West of the Gila and Salt River Meridian, Yavapai County, Arizona.